Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197

Reply Comments of AARP

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Introduction and Summary

In its opening comments, AARP conveyed its deep disappointment with the apparent direction of Lifeline policy that is evident in the *2017 NPRM.*[1] AARP noted that the *2017 NPRM* advances a program that will result in reduced Lifeline support for low-income households and a growing digital divide. After reviewing the opening comments filed by other parties in this proceeding, AARP finds that the dismay expressed by AARP regarding the proposals in the *2017 NPRM* is widespread. Indeed, AARP does not recall previously reviewing opening comments that are so consistent in their opposition to policy changes advanced by the Commission. For example, on the issue of reseller participation in the Lifeline program, parties from across the spectrum—from the Free State Foundation[2] and Citizens Against Government Waste, [3] to representatives of low-income individuals, such as Mobile Beacon[4] and the twenty-two groups filing as Low-Income Consumer Advocates,[5] to state public utility Commissions,[6] to facilities-based wireless providers such as Verizon and Sprint[7]—all express agreement with the position advanced by AARP, i.e., that the *2017 NPRM's* proposed ban on resellers is misguided and, if adopted, will

[1] *In the Matter of Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*. WC Docket No. 17-287, WC Docket No. 11-42, WC Docket No. 09-197. Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry. December 1, 2017. Hereinafter, to economize on notation, all references to either the NPRM or the NOI will be to "*2017 NPRM*".
[2] Comments of Randolph J. May, President of the Free State Foundation, February 21, 2018, p. 4.
[3] Comments of Citizens Against Government Waste, January 24, 2018, p. 8.
[4] Comments of Mobile Beacon, February 21, 2018, p. 2.
[5] Comments of Low-Income Consumer Advocates, February 21, 2018, pp. 5-7.
[6] Comments of the Florida Public Service Commission, February 21, 2018, p. 2; Comments of the Indiana Utility Regulatory Commission, January 24, 2018, p. 3; Comments of the Minnesota Public Utilities Commission, January 24, 2018, p. 5; Comments of NARUC, February 21, 2018, p. 21; Comments of the Public Utilities Commission of Ohio, February 21, 2018, pp. 4-5.
[7] Comments of Verizon, February 21, 2018, p. 8; Comments of Sprint, February 21, 2018, p. 14.

harm competition and consumers and generally undermine the potential for a successful Lifeline program.

Regarding the issues addressed in this reply, AARP finds that numerous parties agree with AARP's opening comments in which AARP recommended that:

- **Resellers should not be banned from the program.** The Commission should continue to allow resellers to participate in the Lifeline program. If resellers are banned, the reduction in reseller demand for capacity (and the reduction in competition) is unlikely to spur additional investment. As the *2017 NPRM's* reseller ban appears to be motivated by concerns associated with waste, fraud, and abuse, implementation of the National Verifier will provide a superior method to ensure the proper use of funds—eliminating resellers is not a reasonable solution.
- **Support for voice services must continue.** Voice services provide critical communication capability. Voice services provide access to key resources associated with employment, healthcare, education and access to emergency services. AARP strongly urges the Commission to suspend the phase-out of support for voice services.
- **The proposed lifetime cap on individual benefits is not reasonable.** The plight of the poor elderly and disabled, who do not have the ability to pull themselves out of poverty, is ignored by this proposal. Furthermore, even for low-income individuals who can rise out of poverty, this outcome may not be a one-way street. Consumers who live on the edge of poverty may need to access benefits during more than one period of their lives.
- **The "self-enforcing budget" should not be implemented.** This proposal would reduce the effectiveness of the program and will be highly disruptive to consumers who utilize the Lifeline program. Service provider participation will also be hindered if support amounts are unexpectedly cut off. In addition, the Lifeline program should not be constrained by this approach during periods of economic downturn.
- **The "equipment requirements" should continue.** These requirements that require Wi-Fi and tethering-enabled devices encourage the sharing of Internet access and promote consumers' ability to economize on the use of data allowances. Elimination of these requirements will encourage abusive practices by service providers.
- **Copayments should not be required.** Requiring copayments from Lifeline recipients is not reasonable and should not be implemented. Evidence indicates that the introduction of mandatory copayments reduces participation in programs designed to benefit low-income individuals.

- **"Units" are not a reasonable proposal.** TracFone's proposal to combine voice and data usage into a single set of "units" should not be adopted. Customer confusion and increased costs to consumers are more likely with a "unit" approach.

In the balance of this reply comment, AARP will review the record on the key matters summarized above. AARP will provide additional evidence that AARP's opening comments provide a reasonable set of recommendations for a path forward for the Lifeline program, and AARP will also show that those parties that offer a contrary position do not reasonably support their claims. The record also strongly supports the proposition that prior to making significant changes to the existing Lifeline program the Commission should fully implement the National Verifier program, which is slated to be completed by 2019.

Reseller Competition is a Key Element of the Lifeline Program

In opening comments, AARP noted that the *2017 NPRM's* proposal to eliminate all support for resale-based Lifeline providers will harm competition and consumers.[8] If implemented, this change would dramatically alter the current marketplace and significantly reduce consumer choice. AARP agrees with NASCUA who argues that the proposed ban on resellers "is an unreasonably blunt tool to try to reduce waste, fraud and abuse."[9] AARP finds that numerous commenters are similarly critical of the *2017 NPRM's* proposal to ban resellers from participation in the Lifeline program.[10] For example, Verizon contradicts the *2017 NPRM's* claims that the elimination of resellers will promote broadband investment by noting, as did

[8] AARP Comments, February 21, 2018, pp. 12-15.
[9] NASUCA Comments, p. 19.
[10] In addition to the comments quoted below, see, for example: Comments of America's Health Insurance Plans, Comments of Benton Foundation, pp. 6-7; Comments of Cities of Boston, MA, Los Angeles, CA, Portland, OR, and Texas Coalition of Cities for Utilities Issues, February 21, 2018, p. 13 (hereinafter, Cities of Boston, et al.); Comments of City of New York, p. 3; Comments of Sprint, p. 17; Comments of US Telecom, p. 2. All filed February 21, 2018. See also, Comments of the Michigan Public Service Commission, filed January 23, 2018, pp. 5-6; Comments of Consumer Action, filed January 24, 2018, p. 2;

AARP,[11] that resellers already have a positive impact on investments made by facilities-based carriers, and that the proposed restriction on reseller participation would result in the potential for reduced investments and consumer harms:

> . . . discontinuing support to resellers would undercut the main purpose of the Lifeline program, which is to address affordability. *Moreover, restricting Lifeline support to facilities-based carriers is unlikely to materially improve the business case for broadband deployment in high-cost areas, given that Lifeline consumers contribute revenue to the underlying facilities-based carrier regardless of whether it serves the customer directly or via resale*. Moreover, underlying facilities-based carriers can benefit from resellers' focus on marketing to low-income consumers. In the challenging areas that currently lack broadband, the Commission can more effectively foster broadband deployment with dedicated support from the high cost fund.[12]

The Pennsylvania Utility Law Project illustrates the overwhelming dependence on resellers that currently characterizes the Lifeline program, and the significant and negative impact on low-income consumers that would result from the proposed flat ban on reseller participation:

> Approximately 85% (over 450,000) of Pennsylvania's economically vulnerable Lifeline subscribers receive service from a non-facilities based provider. If the FCC were to impose a facilities-based requirement, the result would be to strand potentially hundreds of thousands of current Lifeline customers, leaving them without access to basic communication service. For many of these customers it will be difficult or impossible to pick up a shift at work, apply for a new job, take a call from their child's school, arrange a medical appointment, or call for help.[13]

INCOMPAS points to the harm to the broad objectives of the Lifeline program that would arise from the proposed ban on resellers:

> At a time when the Commission has been actively trying to bridge the homework gap for students without a dedicated broadband connection at home and harness the power of the

[11] Comments of AARP, February 21, 2018, pp. 13-14.
[12] Comments of Verizon, February 21, 2018, pp. 9-10, emphasis added.
[13] Comments of Pennsylvania Utility Law Project, January 24, 2018, p. 1.

> Internet for job seekers, cutting off their access to these services by eliminating reseller options in the marketplace sends an anomalous message about the Commission's true broadband priorities.[14]

Applied Research Designs points to problems with the *2017 NPRM's* proposal in light of the statutory provisions.

> Such a formulation may violate the plain language of section 214(e)(l) of the Communications Act, which commands that a state-designated ETC "shall be eligible to receive universal service support in accordance with section 254 of this title and shall ... offer the services that are supported by Federal universal service support mechanisms ... either using its own facilities or a combination of its own facilities and resale of another carrier's services." Thus, Congress clearly mandated that an ETC may employ a "combination" of its own facilities and resale in constructing an offering that is eligible for universal service support.[15]

Parties Supporting the Ban on Resellers are Unconvincing

While most of those filing comments oppose the flat ban on resellers, a handful of parties agree with the *2017 NPRM's* proposal on this matter. For example, ATN International, Inc. argues that resellers reduce investment in broadband-capable networks, stating that "Lifeline funds that are directed to resellers are more likely to be removed from areas that need it most, while funds directed to facilities-based providers are more likely to stay in these needy communities in the form of maintenance and new investments."[16] This claim overlooks the fact that resellers buy capacity from facilities-based providers, who must make investments in localized service areas. As noted in the quote from Verizon above, investments in broadband facilities are linked to resellers, who target low-income consumers. ATN International, Inc. also points to the fact that the FCC does not separately evaluate resellers as a source of competition when considering

[14] Comments of INCOMPAS, February 21, 2018, pp. 5-6.
[15] Comments of Applied Research Designs, February 21, 2018, p. 5.
[16] Comments of ATN International, Inc., February 21, 2018, p. 3.

mergers between wireless carriers.[17] The Commission should ignore this red herring. Market analysis associated with wireless mergers is not related to the operations of the Lifeline program, and the classification of resellers in merger cases certainly does not define their role in the context of the Lifeline program. Conflating antitrust analysis with the usefulness of resellers to drive broadband adoption in low-income areas distracts from the beneficial impact of resellers in serving markets that facilities-based providers are hesitant to fully embrace. Because facilities-based carriers have limited interest in markets for those with low incomes,[18] reseller activity fills a gap in low-income markets.

The Public Service Commission of the District of Columbia questions the need for resellers, arguing that it has not seen sufficient evidence that removing resellers from the mix would result in reduced Lifeline availability on a geographic basis.[19] AARP noted in opening comments that a high percentage of Lifeline subscribers are currently served by resellers.[20] Other parties also point to this fact. For example, NARUC references nationwide statistics showing that 75% of Lifeline customers are served by resellers.[21] However, in some states the percent relying on Lifeline resellers is higher. The Public Utility Division of the Oklahoma Corporation Commission indicates that 94% of Lifeline support in Oklahoma is distributed to wireless

[17] Comments of ATN International, Inc., February 21, 2018, p. 3.
[18] Comments of AARP, February 21, 2018, p. 13.
[19] Comments of Betty Ann Kane, Chairman of the Public Service Commission of the District of Columbia, February 21, 2018, p. 8.
[20] Comments of AARP, February 21, 2018, p. 12.
[21] Comments of NARUC, February 21, 2018, p. 5.

resellers.[22] The Public Utilities Commission of Ohio indicates that 78% of Ohio Lifeline customers are served by pure resellers.

Furthermore, other parties point to the withdrawal of facilities-based providers like AT&T from ETC status, which certainly provides evidence of a lack of facilities-based alternatives.[23] Clearly, there is ample evidence that resellers play an important role in serving the Lifeline market, and that removal of resellers would be disruptive. Thus, the Public Service Commission of the District of Columbia does not acknowledge important data on the vital role of resellers in the Lifeline program.

The Public Service Commission of the District of Columbia also points to the services available from Sprint's subsidiary Assurance Wireless as supporting the proposition that the elimination of wireless resellers will not result "in a significant decrease in the availability or affordability of voice and BIAS Lifeline services."[24] However, Sprint disagrees with the Public Service Commission of the District of Columbia on this matter:

> The majority of Lifeline customers obtain service from resellers, which had an estimated 6.1 million customers as of December 2017. The forced exit of their service providers from the Lifeline market would be confusing to these end users, and could result in at least a temporary disruption in service – some end users will not realize they need to obtain service from a facilities-based carrier, some will not know how to transfer their service, some will not provide required documentation in a timely manner. Some

[22] Comments of the Public Utility Division of the Oklahoma Corporation Commission, p. 4.
[23] See, for example, Comments of Cities of Boston, et al., February 21, 2018, p. 14; Comments of the Florida Public Service Commission, February 21, 2018, p. 2; Comments of Low-Income Consumer Advocates, February 21, 2018, p. 6.
[24] Comments of Betty Ann Kane, Chairman of the Public Service Commission of the District of Columbia, February 21, 2018, p. 9.

> customers will successfully transfer to a facilities-based carrier, but some will lose service altogether.[25]

AARP does not believe that removing choices for low-income consumers is a reasonable alternative and encourages the Commission to reject that unsupported position of the Public Service Commission of the District of Columbia.

The D.C. Commission's Census Block Audit Proposal is Misguided

AARP is also not convinced of the wisdom of the Public Service Commission of the District of Columbia's proposal to require State commissions to annually "verify which census blocks do not have a wireline or wireless facilities-based Lifeline service ETC." It is not reasonable to introduce a new set of restrictions on customer choice based on census block geography. Such an approach would be a recipe for customer confusion and would discourage service providers from participating in the program. If a reseller could only sell service in the census blocks without a facilities-based provider, the reduction in market size would also likely drive resellers from many markets, thus harming consumers.

The Public Service Commission of the District of Columbia also proposes to conduct "reverse Dutch auctions" where Lifeline ETCs would bid to offer service in unserved census blocks.[26] It seems likely that reverse auctions for the opportunity to serve a patchwork quilt of census blocks unserved by facilities-based Lifeline providers would not enable a feasible business model, and would thus discourage entry into the proposed Dutch auctions. The potential for a lack of entry in the auctions would undermine the effectiveness of such a mechanism to reduce program costs.

[25] Comments of Sprint, February 21, 2018, p. 17.
[26] Comments of the Public Service Commission of the District of Columbia, February 21, 2018, p. 9.

In summary, the proposals of the Public Service Commission of the District of Columbia are not convincing, and the Commission should ignore the Public Service Commission of the District of Columbia's recommendations on these matters.

In conclusion on the matter of the proposed flat ban on reseller offerings of Lifeline service, the record shows that such an approach will likely harm large numbers of low-income consumers by disrupting service availability and reducing consumer choice and competition. If the FCC is interested in promoting investment, it should pursue those efforts directly through universal service programs that encourage investment, especially in areas where there are high numbers of low-income consumers. The ban on resellers proposed by the *2017 NPRM* will not achieve the stated objectives of increased investment, nor will it likely result in significant reductions in waste, fraud and abuse, given that the Commission has already taken significant steps in that area, and with the full implementation of the National Verifier program on the horizon.

The Self-Enforcing Budget Should be Rejected by the Commission

In opening comments, AARP opposed the idea of a self-enforcing budget, noting that the approach would be difficult to implement and would also be highly disruptive to both Lifeline customers and Lifeline service providers.[27] The *2017 NPRM* envisioned USAC forecasting Lifeline disbursements and administrative expenses over a six-month period. If this amount were to exceed one-half of the annual cap, Lifeline support amounts for the following six-month period would be reduced proportionally.[28] This type of mechanism would potentially destabilize the program, with consumers facing the prospect of service discontinuance or modification based

[27] Comments of AARP, February 21, 2018, pp. 22-23.
[28] *2017 NPRM*, ¶106.

on the fluctuating levels of support, which would likely have a negative impact on the financial viability of service providers.[29] AARP also noted that a self-enforcing budget would result in inflexibility during times of economic recession, resulting in budget limits at the very time when needs were increasing.[30]

Opposition to the self-enforcing budget was also widespread among other commenting parties.[31] For example, Communication Workers of America notes, like AARP, that the proposal for a cap would be highly disruptive to the effectiveness of the program:

> The Commission proposes a "self-enforcing budget mechanism" that would reset benefit amounts mid-year or adjust benefits in the following year. CWA strongly opposes capping the Lifeline program's budget. Such a policy change would depress participation rates, prevent eligible households from participating in the program, and would counteract the Commission's goal of promoting modern communications services for low-income families. Rationing Lifeline is contrary to the intent of universal service and the mission of the Lifeline program. The Commission's proposals will destabilize the program for providers and consumers and lead to more complex administration by the Commission. Year-to-year uncertainty in the total funding available could deter Lifeline participation by companies because they will not be able to accurately budget for participating in the program. A budget cap may result in eligible households being turned away or put on waiting lists. If families are turned away, the Commission will then need to develop the processes to address the demand, adding to the complexity of the program. Rather than erecting barriers and complicating the Lifeline program, the Commission should work to ensure that all eligible low-income households participate.[32]

[29] Comments of AARP, February 21, 2018, p. 22.
[30] *Id.*
[31] In addition to the comments cited below, see the comments of the following parties: America's Health Insurance Plans, p. 3; Common Sense Kids, p. 9; Consumer Action, p. 2; Cox, pp. 9-10; CTIA, p. 22; Free Press, pp. 53-54; Multicultural Media, Telecom and Internet Council and the "Lifeline Supporters," p. 15; National Hispanic Media Coalition, p. 24; National Tribal Telecommunications Association, p. 7; New America's Open Technology Institute, p. 30; Oregon Citizens' Utility Board, 3rd page; Q Link, pp. 22-23; US Telecom, p. 9; Verizon, p. 10. All filed February 21, 2018. See also, Comments of LGBT Technology Partnership, January 24, 2018, 3rd page.
[32] Comments of Communication Workers of America, February 21, 2018, p. 3.

The Free State Foundation correctly points to the fact that a self-enforcing cap would be difficult to implement, and also runs contrary to the notion of a "safety net" service:

> As the Commission's Notice recognizes, there are dozens of practical implementation problems that would have to be resolved in connection with adoption of a self-enforcing budget cap, for example, relating to the appropriate period or periods for assessing compliance, the forecasting models to be utilized, the methodology to be employed in reducing payments under a cap, the way to prioritize disbursements, and more. Moreover, the notion of a self-enforcing hard budget cap runs against the objective of a "safety net" program to provide support for eligible low-income persons in need. Suppose, for example, there is a severe, unpredicted economic downturn with substantial job losses – let's hope not, but just suppose – and, therefore, many more persons than projected in the budget become eligible to receive support. During the downturn's duration, I don't think it makes sense to "close the door" when some budget cap is reached. The impact of such an action almost certainly would be capricious in its implementation.[33]

The Minnesota Public Utilities Commission also argues against the cap, noting that there are currently large numbers of eligible consumers who are not subscribing, and that a cap would impede the ability of agencies to increase use of the Lifeline benefit:

> The Minnesota Agencies recommend that the budget be set at such a level sufficient to facilitate additional enrollment of eligible households. Unreasonable restrictions on the Lifeline budget would impede the ability of states like Minnesota to enroll more qualifying households. During 2015, no state signed up more than 52% of eligible households. In Minnesota only 17 percent of those eligible for Lifeline actually subscribed to the service. Nearly 486,000 Minnesota households could have benefitted from the program in 2015 but did not. These statistics suggest that either the benefit is not worth much to subscribers, or more likely, that subscribers are not learning about the benefit. The Minnesota Agencies believe the latter to be the case. With the implementation of the National Verifier, and other waste and fraud reducing measures, the Commission should anticipate savings which can be used toward serving low income

[33] Comments of Free State Foundation, February 21, 2018, p. 6.

> subscribers. Once it first focuses on enrollment, then the Commission can determine the appropriate budget.[34]

Cities of Boston, et al. point to the arbitrary nature of the proposed cap, and state that the likely outcome would be depriving eligible consumers from receiving support, a position that is also advanced by Black Women's Roundtable.[35] The City of New York points to the fact that the cap proposal is not linked to any findings of waste, fraud or abuse, but would simply reduce benefits as the number of needy Americans increases.[36]

Other parties advised the Commission to exercise caution when implementing a cap, or otherwise suggested a moderate approach to the implementation of a cap.[37] INCOMPAS advises the Commission that "responsible program management requires the Commission to proceed only after performing adequate contingency planning and impact estimates. The Commission's proposal fails to quantify the expected disruption of service to customers."[38] National Lifeline Association points to NAURC's February 14, 2018 resolution which states, in part:

> NARUC urges the FCC, in any budget it sets for the Lifeline program that it carefully balance: (1) ensuring that qualified households that are current subscribers do not lose their eligible Lifeline benefit; and (2) that there is reasonable and rational growth in the Lifeline fund to serve subscribers in an amount that does not exceed the current soft budget notification amount.[39]

[34] Comments of the Minnesota Public Utilities Commission, January 24, 2018, p. 10.
[35] Comments of Cities of Boston, et al., February 21, 2018, p. 21; Comments of Black Women's Roundtable, February 21, 2018, p. 4.
[36] Comments of the City of New York, February 21, 2018, p. 6.
[37] See, for example, Comments of NASUCA, February 21, 2018, p. 26.
[38] Comments of INCOMPAS, February 21, 2018, p. 12.
[39] NARUC Resolution to Ensure that the Federal Lifeline Program Continues to Provide Service to Low-Income Households, February 14, 2018. Cited in Comments of National Lifeline Association, February 21, 2018, p. viii.

Similarly, the Florida Public Service Commission points to the need for flexibility in sizing the budget of the Lifeline program, and proposes to link the Lifeline budget to the changes in federal SNAP program participation.[40] Sprint proposes that a cap be set no lower than $2.25 billion, and that the Commission evaluate the effectiveness of the National Verifier as that program is implemented in the coming years.[41]

Those not Opposed to the Cap are Unconvincing

On the other hand, the position of Citizens Against Government Waste, which argues in favor of a self-enforcing cap, is unreasonable.[42] To support its position, Citizens Against Government Waste offers no advice regarding the implementation of the cap, or any insight into the impact of the proposed cap in the success of the program.[43] Given the lack of support, the recommendation of Citizens Against Government Waste is not supported or reasonable. Alternatively, ITTA, while not opposing the concept of a cap, points to the lack of analysis associated with the cap and cautions the Commission to "more fully develop its proposals."[44]

In summary, the *2016 Lifeline Order* provided an eminently workable solution to both enable program growth and to control program costs.[45] As noted by AARP and the other parties quoted above, the adoption of a self-enforcing cap would be disruptive to the operations of the program, to consumers, and service providers, and would also undermine the purpose of a safety-net

[40] Comments of the Florida Public Service Commission, February 21, 2018, pp. 6-7.
[41] Comments of Sprint, February 21, 2018, pp. 4-5.
[42] Comments of Citizens Against Government Waste, January 24, 2018, p. 10.
[43] *Id.*
[44] Comments of ITTA, February 21, 2018, p. 5.
[45] *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90 Third Report and Order, Further Report and Order, and Order on Reconsideration, April 27, 2016, ¶401.

program. AARP recommends that the Commission continue to rely on the *2016 Lifeline Order's* approach.

However, it is also important to keep a larger problem in mind as the Commission considers the appropriate budget size. As AARP noted in opening comments, at current funding levels, low-income households are being left behind.[46] And while this market and policy failure is staring the Commission in the face, the ability to generate funds sufficient to expand the reach of broadband services in low-income communities continues to be hamstrung by the Commission's unwillingness to assess broadband services to support broadband universal service. Thus, the discussion of the Lifeline program, and universal service policies in general, has lost sight of the backward-looking funding approach, based on the assessment of voice services alone. This approach is inequitable and irrational. Furthermore, as discussed by AARP in opening comments, reliance on assessments on voice services alone overly burdens older Americans.[47] While it certainly is the case that the Commission's existing approach to capping the Lifeline program at $2.25 billion per year is a workable policy to prevent runaway program costs, the larger issue of equitably generating these funds continues to be ignored by the Commission. AARP urges the Commission to expand the contribution base to include a contribution from broadband services to support broadband universal service.

The Maximum Discount Will Undermine Lifeline Program Goals

The *2017 NPRM* proposes a "maximum discount," (or copayments) for Lifeline subscribers, and asks whether "the users of the supported service value that service more if they contribute

[46] Comments of AARP, February 21, 2018, pp. 5-9.
[47] Comments of AARP, February 21, 2018, p. 10.

financially"?[48] As noted by AARP in opening comments, there is evidence that requiring copayments for a program such as Lifeline will result in harms to participation and undermine the program's goals.[49] Similar sentiments were expressed by other parties. For example, CTIA opposes the maximum discount by pointing to the lack of banking resources among low-income individuals, and also notes that significant barriers to adoption can arise as a result of such a policy.[50]

> Similarly, the proposal to adopt a "maximum discount level" would make Lifeline less accessible to the lowest-income consumers. The Commission has previously concluded that requiring low-income consumers to pay a minimum charge for service creates difficulties for particularly hard-hit communities such as the un-banked. As the Commission noted, "[e]ven a minimal one-time fee could be a significant barrier for many of the intended recipients of the program." The NPRM/NOI's suggestion that some Lifeline customers "do not value or may not ever realize they are purportedly receiving a Lifeline-support service" is inconsistent with the program's minimum usage requirements – if customers do not use the service, they will be de-enrolled from Lifeline. For these reasons, the Commission should not adopt a "maximum discount level" without first considering the impact such rules would have on Lifeline consumers.[51]

Sprint presents evidence, based on research of its Assurance Wireless subsidiary, which illustrates the limited resources of Lifeline participants and highlights to the pitfalls of requiring copayments.

> Assurance Wireless' research indicates that its average Lifeline customer is 47 years old with a household income of approximately $14,000; half have at least one person younger than 18 years old in their household. There surely can be no dispute that imposition of even a seemingly modest end user charge would be a severe hardship for

[48] *2017 NPRM*, ¶112.
[49] Comments of AARP, February 21, 2018, pp. 20-21.
[50] Other parties pointing to the Commission's previous findings that copayments were not reasonable include NASUCA (p. 27), National Lifeline Association (pp. 62-63), and Sprint (p. 8), all comments filed on February 21, 2018.
[51] Comments of CTIA, February 21, 2018, pp. 22-23.

> such households. These end users will not finance a Lifeline co-pay by foregoing some frivolous luxury – they are far more likely to go without a meal or skip a prescription refill in order to come up with the money to pay a monthly service charge, or possibly be forced to drop the service altogether (particularly if a lump sum payment is required). Even if the end user can find the funds to pay a minimum service charge, because many Lifeline subscribers are unbanked, the mechanics of remitting payment are likely to be difficult in ways which more financially stable consumers of voice and broadband services – those with bank accounts or credit cards – cannot begin to imagine.[52]

While Sprint's experience is based on averages, the National Hispanic Media Coalition offers an individual case study that illustrates the serious problems with the *2017 NPRM's* copayment proposal:

> The Commission's proposal to require a "maximum discount level," more appropriately described as a co-pay for Lifeline service, could be a cost increase to low-income families that means the difference between getting online or remaining on the wrong side of the digital divide. The NPRM notes that "many service providers use the monthly Lifeline support amount to offer free-to-the-end-user Lifeline service, for which the Lifeline customer has no personal financial obligation." Takouie Daglian, a current Lifeline recipient, shared how vital Lifeline has been for her since she lives on a very limited SSI income and has many health-related issues. Takouie said that her phone is the only way she can connect with health and emergency services, as well as her family members. She also stressed that she would not be able to afford a phone without Lifeline. In its NPRM the Commission asks, "Do the users of the supported service value that service more if they contribute financially? Are such users more sensitive to the price and quality of the service?" Suggesting that people like Takouie and other families struggling to make ends meet to do not already have sufficient "skin in the game" when it comes to their communications services is offensive – an implication that demonizes the poor.[53]

Smith Bagley, Inc. points to the difficulty in collecting even modest copayments from Lifeline customers, especially in Tribal areas:

[52] Comments of Sprint, February 21, 2018, p. 9.
[53] Comments of National Hispanic Media Coalition, pp. 25-26.

> The Commission proposes a maximum discount level for Lifeline, "above which the costs of the service must be borne by the qualifying household." Since the outset of its participation in Lifeline in 2001, SBI (Smith Bagley, Inc.) has charged consumers amounts varying between $0.50 and $1.00 per month for service. SBI continues to face challenges collecting funds from customers, primarily because most of the subscribers in its Tribal Lifeline customer base do not have checking or credit accounts. They are cash customers who often live far from SBI's facilities, lack mail delivery service, and have few transportation options. SBI has employed strategies such as collecting $12.00 in cash up-front for a 12-month contract, to minimize the need for customers to travel to stores each month to deliver cash payments. In SBI's experience, most of its Tribal customers cannot afford much more than $1.00 per month for service. Thus, a maximum discount level would have a substantial negative impact on the affordability of service for these low-income Tribal customers. Accordingly, SBI favors continuing to permit carriers to offer service without a monthly charge, especially on Tribal lands.[54]

New America's Open Technology Institute points to problems associated with the administration of a copayment plan:

> Mandatory co-pays would also create significant administrative costs, as the FCC would have to create a process to ensure that providers actually collect the required customer share. This process would necessarily generate new compliance costs for providers, USAC, and the Commission.[55]

AARP agrees that the compliance framework would impose unnecessary and unproductive regulatory costs on service providers, and would likely deter participation in the program for low-income individuals who are more likely to be unbanked.

On the other hand, the Public Utility Division of the Oklahoma Corporation Commission offers the following argument in favor of copayments:

> PUD believes that the establishment of a maximum discount level and the subsequent result of having the consumer contribute financially to the Lifeline service they receive

[54] Comments of Smith Bagley, Inc., February 21, 2018, p. 16.
[55] Comments of New American's Open Technology Institute, February 21, 2018, p. 31.

> would help to ensure that the consumer, who is best positions (*sic*) to make such a determination, is a participant in determining what constitutes maximum value for the service. Additionally, requiring some level of financial participation by the Lifeline recipient would assist in directing the support to those subscribers that have the highest level of need for the service as opposed to those that are eligible but would, absent the support, meet their service needs through other means.[56]

This argument is not reasonable. In the first place, the Public Utility Division makes the same mistake that is present in the *2017 NPRM* by conflating consumer "value" and "ability to pay." As is evidenced by the comments quoted above, the lack of low-income consumers' ability to pay is what prevents service adoption—if monies are not available, or if the choices of what to give up to make a phone payment are too onerous, a service that otherwise has high value will be foregone. The Public Utility Division offers no support for the proposition that "financial participation" would result in supporting those "subscribers that have the highest level of need for the service." Those with the highest need may also be those with the least disposable income, and how those individuals would "meet their service needs through other means" is not explained by the Public Utility Division. AARP urges the Commission to refrain from imposing copayment requirements.

Benefit Limits Will Harm Older Americans and Others who are the Most Vulnerable

In opening comments, AARP opposed the *2017 NPRM*[57] proposal to implement a benefit limit. The benefit limit proposal appears to assume that dependence on Lifeline service is necessarily a transitory phenomenon and AARP noted that this perspective completely ignores the plight of the elderly and disabled, whose reliance on Lifeline is not the result of transitory economic

[56] Comments of the Public Utility Division of the Oklahoma Corporation Commission, February 21, 2018, p. 15.
[57] While this proposal appears in the NOI, to economize notation *2017 NPRM* is used to reference the proposal.

conditions.[58] Other parties also noted the *2017 NPRM's* unreasonable perspective on benefit limits.

The cities of Boston, et al. also point to the plight of the elderly and disabled, who would be harmed the most by the proposal:

> Seniors and people with disabilities, who may need support over a long period of time, would be relatively quickly capped out and disconnected. Such a cap therefore runs counter to Congressional goals of encouraging service adoption; it would be telling Americans that help is available, but it's a limited offer and they better hope they're not in need again, or for too long. Any policy that might lead to such a result should not be contemplated, let alone adopted, by the Commission.[59]

New America's Open Technology Institute also points to the unreasonableness of the benefit limit proposal in light of the needs of older Americans:

> By essentially kicking people out after the benefit cap has been reached, the Commission would harm many vulnerable communities. Older Americans in particular have acute telecommunications needs, including emergency services and telemedicine, access to which Lifeline was designed to facilitate. Their communications needs do not end after a certain period of time. A lifetime cap would cut off support for many low-income Americans just as they reach an age when their need for communications service might be strongest. Preventing elderly Americans from being able to make a 911 call because they have been in the Lifeline program for more than an arbitrary number of years undermines the core purpose of universal service.[60]

The National Lifeline Association also points to the problem of the elderly,[61] and correctly points out that the process climbing out of poverty for the non-elderly is not necessarily a one-

[58] Comments of AARP, February 21, 2018, p. 26.
[59] Comments of Cities of Boston, et al., February 21, 2018, p. 28.
[60] Comments of New American's Open Technology Institute, February 21, 2018, p. 27.
[61] Comments of National Lifeline Alliance, February 21, 2018, p. 109.

way street. The potential to need benefits at multiple times in a lifetime would make the benefits limit proposal counterproductive.

> While the goal of Lifeline subscriber and service providers is to have subscribers climb out of poverty and become full-fledged participants in our modern digital economy (and full paying customers), there is no uniform timeframe for how long that process takes – nor is there a guaranty of success. Indeed, it is those subscribers that have not yet been able to climb out of poverty who are most in need the connectivity that Lifeline service provides – for calls to 911 and communications (both voice, text and via the Internet) with healthcare providers, employers and family. The last thing a working mother struggling to cobble together enough shifts at various jobs to get out of poverty needs is to lose her phone and Internet service so that employers can't reach her because of an arbitrary Lifeline cutoff. Also, many Lifeline subscribers are elderly and the chance that such subscribers' financial circumstances will improve dramatically is fairly low.[62]

Smith Bagley, Inc. points out that the proposed lifetime benefits limit would be particularly harmful in tribal areas, where poverty is widespread and persistent:

> From SBI's perspective, such a proposal would disserve people living on Tribal lands. Poverty and unemployment levels remain extraordinarily high, and while increased telephone penetration has greatly improved the lives of Tribal residents, telephone service alone does not solve these problems.[63]
>
> The Commission also speculates that imposing benefit limits "would provide low-income households incentives to not take the subsidy unless it is needed.…" Again, the reality for many Tribal customers served by SBI is that the subsidy will be needed indefinitely to enable these customers to afford broadband service. Thus, providing the incentives suggested by the Commission would be pointless. If the Commission were to impose benefit limits, it would be choosing to limit these customers' access to broadband service. Such a result would be in stark contrast to the Commission's intention to "continue[ ] its work to ensure that all Americans have access to, and can afford, the high-quality services that constitute advanced telecommunications capability."[64]

[62] Comments of the National Lifeline Association, February 21, 2018, p. 109.
[63] Comments of Smith Bagley, Inc., February 21, 2018, p. 18.
[64] Comments of Smith Bagley, Inc., February 21, 2018, p. 20.

The Minnesota Public Service Commission notes that the benefits limit proposal is not only a bad idea for consumers but is also bad for the investment incentives associated with the companies that will serve them.[65] Furthermore, the Minnesota Public Utilities Commission notes that the proposal is at odds with the function of the National Verifier:

> A benefit length of time is pointless for both the customer and the company. If customers must recertify each year, and the National Verifier is functioning properly, there should be no concern about defrauding the system. If Lifeline is available only for a given time, then the result is likely to be no telecommunications services for the many customers that remain low income and any investment the provider made will have no future return.[66]

In addition to the patent unreasonableness of the benefits limit proposal, the Florida Public Service Commission also notes that such an approach would also result in administrative complexity:

> The FPSC believes that administering and tracking such limits would unnecessarily complicate the program in light of the FCC's own data that most households remain enrolled for under two years. We do not believe a limit based on the total amount of support or the length of time allowed for participation is necessary at this time.[67]

Several parties point to the potential negative impact of the *2017 NPRM's* proposals on low-income veterans.[68] On the matter of veterans and the proposed benefits cap, National Grange states:

> According to a Public Policy Polling survey of veterans and military families conducted for the Alliance for Freedom, 68 percent believe it would be unfair "to 'cap' or impose a

[65] Comments of the Minnesota Public Utilities Commission, January 24, 2018, p. 12.
[66] Comments of the Minnesota Public Utilities Commission, January 24, 2018, p. 12.
[67] Comments of the Florida Public Service Commission, February 21, 2018, p. 8.
[68] See, for example, Comments of Consumer Action, January 24, 2018, p. 3; INCOMPAS Comments, February 21, 2018, p. 3; Comments of National Lifeline Association, February 21, 2018, p. 48; Comments of National Digital Inclusion Alliance, February 19, 2018, p. 1; Comments of Pennsylvania Public Utility Law Project, January 24, 2018, p. 1.

> budget limit on federal programs – such as VA benefits and Lifeline – that might deny access to the programs for eligible actively-serving U.S. military personnel, veterans and their families."[69]

In summary on the benefit limit, AARP, like other commenters, finds that the *2017 NPRM* is not proposing a reasonable policy. Given that the average duration of Lifeline subscription is 1.75 years,[70] it appears that long-term dependence on Lifeline is not widespread. Thus, under the current approach, those such as the elderly and disabled can retain benefits over a longer period, while those that able to climb out of poverty are able to access benefits should economic recession, or other factors, result in the need for benefits on more than one occasion during a lifetime. The Commission must reject the proposed benefit cap.

The Equipment Requirement Helps to Bridge the Digital Divide

In opening comments AARP supported the existing equipment requirements as a reasonable mechanism to provide essential consumer protection. For example, the Wi-Fi requirements have the potential to enable a more efficient and economical usage of Lifeline-supported broadband services. While the *2017 NPRM* indicates most Americans already own a Wi-Fi enabled smartphone,[71] it is all too easy to imagine Lifeline providers offering smartphones that have limited Wi-Fi capabilities, thus forcing consumers to recharge data allowances more frequently.[72] Other parties also support the continuation of the equipment requirement. Oregon Citizens' Utility Board notes that "Elimination of these provisions, which simply requires providers to offer technologically relevant devices while reducing data-usage expenses to the

[69] Comments of National Grange, February 21, 2018, 3rd page, citing to: https://www.prnewswire.com/news-releases/poll-veterans-military-family-members-oppose-plan-to-reduce-access-to-lifeline-program-for-cell-phones-and-broadband-300552961.html .
[70] *2017 NPRM*, ¶131.
[71] *2017 NPRM*, ¶81.
[72] Service providers could easily block Wi-Fi on smartphones that they provide using software.

customer, clearly runs counter to the FCC's stated interest in bridging the digital divide by incentivizing broadband-enabled network expansion."[73] Greensboro Housing Authority notes the importance of sharing resources that are enabled through Wi-Fi, and points to the importance of these Wi-Fi enabled devices for job applications, online classes, and homework.[74] Minnesota Public Utilities Commission points to the need for standards associated with equipment to ensure that consumers can receive the full benefits of broadband technology:

> The Minnesota Agencies support standards for providers who supply handsets. The cost of smartphones may well be prohibitive for many low income users. Reliance upon the provider for a telephone that is often refurbished or otherwise less than first-rate quality suggests that providers should be required to adhere to a set of standards such that users can rely on the devices they are given.[75]

The National Digital Inclusion Alliance also points to continuing the tethering and Wi-Fi requirements to promote the effectiveness of the program:

> NDIA was among the commenters calling on the Commission to require hotspot and tethering capabilities for ETC-provided devices, pointing out that "Lifeline broadband service via a cellular connection is most useful to all the residents of the household if it is a hotspot device or a mobile phone that easily allows for tethering by other devices." We were happy to see that the Commission included this requirement in the 2016 Order on a phased-in basis, as well as the separate requirement that provided devices themselves be Wi-Fi-capable. We reiterate our position that a program which limits its Internet support to one device per household should logically ensure that Internet access via the device can be shared by all household members.[76]

Alternatively, the Cities of Boston, et al. point to the synergy of Wi-Fi enabled devices and the efforts of municipalities to expand broadband access to low-income communities:

[73] Comments of Oregon Citizens Utility Board, February 21, 2018, 3rd page.
[74] Comments of Greensboro Housing Authority, January 19, 2018, 2nd page.
[75] Comments of Minnesota Public Utilities Commission, February 21, 2018, p. 6.
[76] Comments of the National Digital Inclusion Alliance, February 19, 2018, p. 4.

> The equipment requirements, including WiFi capability help the most needy among us overcome these challenges and make the most of their Lifeline support. Lifeline device requirements also make the program more accessible to potential providers with WiFi-focused business models, and help close the homework gap and the digital divide. Local governments have spent millions providing public access to WiFi for all our citizens, and strenuously disagree with the Commission's proposal to disregard these concerns and give consumers the "choice" to be left further behind.[77]

The City of New York offers a similar explanation for the benefits of the equipment requirement:

> Cities are deploying a range of technologies and strategies to support access to the internet, including Wi-Fi. New York City has extensive public Wi-Fi installations in parks, libraries, and other public spaces, including LinkNYC, which provides fast, free, and secure Wi-Fi connections as well as free phone calls, access to emergency services, and device charging. The City has also organized a project to provide broadband service over Wi-Fi to residents of the Queensbridge Houses, the largest public housing complex in the country with more than 3,100 households. Allowing Lifeline providers to offer devices that lack this essential functionality could cut those users off from these services and increase the digital divide.[78]

The National Association of Telecommunications Officers and Advisors and National League of Cities also opposes abandoning the existing Wi-Fi and tethering requirements, and notes that the *2017 NPRM's* arguments regarding "improving customer choice" are short-sighted:

> It is difficult to find the rationale for eliminating the equipment requirement as a means to "bridge the digital divide." The Commission cites consumer choice as the rationale—a goal it does not embrace in its proposal to eliminate from the program the non-facilities-based providers chosen by most Lifeline consumers—but if additional choices will not improve access to affordable Internet services, then the rationale is misplaced. There is no question Wi-Fi/hot spot-enabled equipment supports and enhances Internet access for Lifeline recipients and no compelling reason to change course.[79]

[77] Comments of Cities of Boston, et al., February 21, 2018, p. 20.
[78] Comments of the City of New York, February 21, 2018, p. 5.
[79] Comments of the National Association of Telecommunications Officers and Advisors and National League of Cities, February 21, 2018, p. 4.

Supporters of Eliminating the Equipment Requirement are Biased and Unconvincing

On the other hand, those that oppose the requirements do not offer any convincing evidence regarding the benefits of repealing the requirement. These parties would, however, potentially benefit financially from eliminating those requirements. For example, the entirety of Sprint's comment on the matter states:

> The Commission has proposed to eliminate the rules requiring that Lifeline equipment be WiFi-enabled and be capable of being used as a hotspot, and prohibiting tethering charges. Sprint supports elimination of these rules. Inclusion of these features adds to the cost of the devices being offered to Lifeline customers, with minimal apparent benefit. Because Lifeline support does not extend to devices, it is entirely appropriate to lift these equipment requirements.[80]

Sprint's "cost-benefit" analysis is entirely unsupported. Sprint overlooks the substantial benefits that consumers will receive if they are provided Wi-Fi enabled devices, as Wi-Fi will make their devices more usable and cost effective. Likewise, the benefits associated with closing the digital divide that are associated with tethering are substantial. As pointed out by AARP in opening comments, and as discussed above by other parties,[81] it is clear at a foundational level that given the limit of Lifeline support to "one-per-household," absent the sharing enabled by tethering, the ability of the broadband connection to be utilized within the household for homework (or other purposes) is substantially reduced.

[80] Comments of Sprint, February 21, 2018, p. 23.

[81] Comments of Cities of Boston, et al., February 21, 2018, p. 18; Comments of Low Income Consumer Advocates, February 21, 2018, p. 4; Comments of Common Sense Kids Action, February 12, 2018, pp. 12-13; Comments of National Lifeline Association, February 21, 2018, p. 87; Comments of the National Association of Telecommunications Officers and Advisors and National League of Cities, February 21, 2018, p. 4; Comments of the National Digital Inclusion Alliance, February 19, 2018, p. 4; Comments of New America's Open Technology Institute, February 21, 2018, p. 14;

ATN International also opposes the equipment requirement, stating that the mandate of "expansive service and equipment requirements hampers the ability of providers to offer services tailored to what consumers want."[82] This assertion is not reasonably supported by ATN. In the first place, the requirement that devices provided to Lifeline customers be Wi-Fi enabled and capable of tethering is anything but "expansive." These technologies are standard features on virtually all modern smartphones, and are standard features on most broadband modems. Delivering devices to consumers without these functionalities would relegate Lifeline users to a technological backwater that would do nothing for consumers other than to raise the cost of using broadband resources.

Furthermore, for those consumers who are new to broadband technology, the lack of familiarity with the technology would open the door for deceptive marketing practices. Assuming for the moment that a device that is not Wi-Fi enabled would be less costly (and no party has provided the Commission any evidence that this is the case), service providers could easily mislead novice broadband consumers into thinking that the "lower priced" device with no Wi-Fi capabilities was the best option. However, the hypothetical reduction in up-front costs could easily be overwhelmed by usage charges that could not be avoided by using the device on low-cost public Wi-Fi networks.

Cox is also in favor of eliminating the equipment requirement, asserting that "the requirement is unnecessary given that consumers will select plans that meet their needs, and competition in the marketplace will facilitate the availability of services that consumers demand."[83] Cox's

[82] Comments of ATN International, Inc., February 21, 2018, p. 5.
[83] Comments of Cox Communications Inc., February 21, 2018, p. 6.

perspective ignores the abject lack of competition in last-mile wireline broadband markets. As noted in the Commission's recent order reclassifying broadband as a Title I information service, most residential subscribers have few choices—even with the lowest level of wireline broadband performance, only 12.1% of households can choose from three or more providers.[84]

Percent of U.S. population in developed census blocks in which residential broadband wireline ISPs reported deployment (as of December 31, 2016)[457]

	Number of providers			
Speed of at least:	**3+**	**2**	**1**	**0**
3 Mbps down and 0.768 Mbps up	12.1%	67.2%	16.2%	4.4%
10 Mbps down and 1 Mbps up	9.0%	58.5%	26.3%	6.2%
25 Mbps down and 3 Mbps up	5.9%	45.2%	39.6%	9.2%

Cox's perspective on competition also ignores the fact that the *2017 NPRM* is proposing to reduce consumer choice and competition for wireless low-income service offerings by banning resellers.

In conclusion on the equipment requirements, the proposals contained in the *2017 NPRM* will undermine the effectiveness of the Lifeline program. AARP urges the Commission to maintain the existing equipment requirements, as these requirements provide substantial benefits to low-income households.

Support for Voice Services Must Not be Phased Out

In opening comments, AARP responded to the *2017 NPRM's* proposal to only continue to support voice services in rural areas. AARP emphasized that voice services continue to play a vital role in consumers' telecommunications usage, and for older Americans, regardless of their

[84] In the Matter of Restoring Internet Freedom, WC Docket No. 17-108, Declaratory Ruling, Report and Order, and Order, January 4, 2018, ¶125.

residing in urban or rural areas, basic voice services provide a vital link to healthcare providers, families, and first responders.[85] AARP reminds the Commission of the dissenting opinion of Commissioner Michael O'Reilly in the *2016 Lifeline Reform Order*:

> I find it remarkable that the Commission claims to be looking out for low-income consumers, but is perfectly content to take away the true Lifeline service that has served so many when emergencies have arisen . . . Here again, the agency takes a paternalistic approach, telling recipients what they need rather than letting consumers decide whether a more affordable option would be sufficient. Some recipients might want a broadband connection to fill out a job application. But others might just want a simple voice service to use in case of an emergency—the original purpose of the program. The Commission calls such basic offerings "second class" service, but I imagine that those who will end up with no service at all might call them a Lifeline.[86]

AARP believes that the Commission must recognize the importance of voice services to the Lifeline program. Voice services provide access to key resources associated with employment, healthcare, education and access to emergency services. Furthermore, low-income households are less likely to have access to computers, or to have computer skills.[87] As a result, migrating the program to a broadband-only format will both deprive low-income households of essential voice communication services and erect significant barriers to the adopting of all telecommunications services. The availability of stand-alone voice services is a key ingredient in keeping low-income Americans connected to vital communications services. Numerous other parties also advanced the position that support for voice services must continue.[88] Low-Income

[85] Comments of AARP, February 21, 2018, pp. 15-18.
[86] Dissent of Commissioner Michael O'Reilly, *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, April 27, 2016.
[87] Comments of AARP, February 21, 2018, pp. 6-7.
[88] In addition to the comments cited below, see: Comments of the Pennsylvania Public Utility Law Project, January 24, 2018, pp. 3 & 4, and Comments of the Rainbow Push Coalition, February 21, 2018, 2nd unnumbered page;

Consumer Advocates clearly illustrates the critical role that voice services play in low-income households.

> Lifeline voice service, alone or as a part of a voice/data bundle, remains a crucial and popular Lifeline option for consumers. Over 8.5 million Lifeline households have chosen Lifeline service where voice is included as part of a bundle or as a stand-alone product. Consumers rely on voice service to contact emergency services. This is life-saving for victims of domestic violence. Voice service is important for job seekers, as it provides the ability to be reached by a prospective employer. The advent of modern just-in-time scheduling practices makes voice and data access essential for workers and their employers; it enables real-time notice of changes in shift times as well as the availability to earn additional money by picking up additional shifts. Voice service is important for parents and educators, as it enables the school to reach parents if a child is sick, facilitates parent-teacher communications, and provides notices of school closings or events. Having voice and texting capability is also important for ad hoc childcare arrangements, particularly when job shifts and school schedules can change suddenly with extreme weather events. Localities rely on emergency notifications to cell phones to push out important, lifesaving alerts. Having a reliable and unchanging phone number allows case workers and doctors to reach families and families to access care. Access to affordable voice service facilitates important services like suicide-prevention hotlines. These communication capabilities are vital for all low-income households and communities and the economy, regardless of whether poor consumers live in urban or rural areas.[89]

As noted by WTA—Advocates for Rural Broadband, voice calling is both popular and necessary:

> Even in today's digital society, reliable voice service remains a critical connection to the world. Voice service is necessary for a variety of business and social purposes, and is particularly essential to summon assistance in cases of emergency. A voice call to 911 is still the most reliable and efficient way to communicate a precarious or dangerous situation to the appropriate public safety authorities. Voice service remains popular,

Comments of Applied Research Designs, February 21, 2018, p. 5; Comments of General Communication, Inc., February 21, 2018, p. 11; Comments of City of New York, February 21, 2018, p. 3; Comments of Cities of Boston, et al., February 21, 2018, p. 9; Comments of Florida Public Service Commission, February 21, 2018, p. 4; Comments of the Leadership Conference on Civil and Human Rights, February 21, 2018, p. 2, Comments of the Minnesota Public Service Commission, January 24, 2018, p. 6.

[89] Comments of Low-Income Consumer Advocates, February 21, 2018, p. 8.

> particularly among senior citizens in rural areas – many of whom make little or no use of the Internet but rather continue to use traditional voice services as their sole or predominant method of communication.[90]

The importance of Lifeline voice services for access to emergency services is clearly illustrated by the National Lifeline Association (a trade organization for Lifeline service providers). National Lifeline Association provided data regarding the usage of Lifeline service to make 911 calls:

> For example, in the last quarter of 2017, one NaLA member's subscribers made nearly 100,000 minutes of calls to 911, with tens of thousands of subscribers making such calls. Over the last year, six NaLA member ETCs reported that their subscribers made nearly one million calls to 911. Importantly, those figures don't include other emergency calls to family, doctors, and loved ones. In addition, Lifeline-supported wireless service has been critical in the tragic wake of recent hurricanes that struck urban centers such as Houston, and San Juan. In those situations, where American families lose everything, wireless voice service truly is a Lifeline.[91]

AARP strongly believes that the continuation of support for voice services is essential and urges the Commission to require that Lifeline providers participating in the program be required to make a stand-alone voice service offering available to Lifeline customers at a reasonable rate.

The *2017 NPRM's* "Rural/Urban" Distinction on Voice is Unreasonable

Like AARP,[92] other parties pointed to the artificial urban/rural voice affordability distinction promoted by the *2017 NPRM*. National Lifeline Association states:

> The Commission is right to call for the restoration of full support for voice services in rural America, but wrong not to call for that same relief in suburban and urban America. Ask people in Houston and in San Juan and they will tell you that voice service is important for calling 911. Ask a parent or a worker and she or he will tell you that voice

[90] Comments of WTA—Advocates for Rural Broadband, February 21, 2018, p. 2.
[91] Comments of National Lifeline Association, February 21, 2018, pp. 47-48.
[92] Comments of AARP, February 21, 2018, p. 16.

> service is important to have when an educator, doctor or employer is trying to call you. Wireless rates are comparable in rural and urban areas – and so are the affordability challenges faced by Lifeline eligible populations. This Commission has an opportunity to correct regulatory overreach by the prior one. It should restore the ability of all Lifeline eligible consumers – regardless of where they live – to choose for themselves the Lifeline service offering that best meets their needs.[93]

Similar sentiments were expressed by Consumer Action:

> Why not protect Lifeline voice services for all consumers, not just those in rural areas? The FCC should not eliminate Lifeline in any area in need of infrastructure. Low income rural and urban consumers should both have the option to choose services they prefer. Most current Lifeline consumers have a voice/data bundle. Voice service is critical for both rural and urban residents to report criminal activity, fires, and other emergency conditions, as well as for keeping in touch with health care providers.[94]

Pennsylvania Public Utility Law Project also points to the essential nature of voice in all areas of the nation:

> We oppose the phase down of voice-only Lifeline support in urban and rural areas alike. Voice-only telecommunication service is and continues to be the most accessible form of communication service. It is, quite literally, a lifeline for low income households who cannot afford the upfront costs associated with more advanced service – ensuring that they are not stranded or isolated from their community.[95]

TracFone points to the discriminatory nature of the *2017 NPRM's* proposal to protect only voice consumers in rural areas:

> Maintaining the phase-down of Lifeline support for voice-only services in all but rural parts of the country would be ill-advised. A policy that would discontinue the phase-down in rural areas only, thus continuing to deprive non-rural customers in other areas of standalone voice services, plainly and facially discriminates against customers residing in urban areas. Moreover, the Commission's reasoning for this discriminatory proposal—

[93] Comments of the National Lifeline Association, February 21, 2018, p. 8.
[94] Comments of Consumer Action, January 24, 2018, p. 2.
[95] Comments of the Pennsylvania Public Utility Law Project, January 24, 2018, p. 3.

> that rural consumers need voice-only service subsidies more than their urban counterparts—is fundamentally flawed in several respects.[96]

NARUC points to legal inconsistencies associated with the current phase-out of support for voice services, especially considering the Commission's recent reclassification of broadband as a Title I information service:

> Moreover, phasing out support for voice services is, at a minimum, facially inconsistent with a Congressional scheme which, in Title II, (i) focuses explicitly on opening competition in local phone "telecommunications services," and (ii) requires carriers to offer a "telecommunications service" to qualify for federal universal service support subsidies. Given the recent reclassification of Broadband Internet Access Service as an information service, the only qualifying "telecommunications service" such subsidized carriers currently offer is voice service.[97]

The D.C. Public Service Commission's does not Support its Position on the Voice Phase-Out

AARP notes that the Public Service Commission of the District of Columbia supports the current phase-down of support for voice services.[98] However, the Public Service Commission of the District of Columbia presents no evidence to support its position. AARP also notes that this sentiment is inconsistent with that expressed by NARUC (cited above) and of other state public service commissions. For example, the Florida Public Service Commission states:

> The FPSC believes that customers should have the option to continue to receive Lifeline support for voice-only service and that the FCC should eliminate its planned phase down of support for voice only services. We are concerned that if the only option for customers to obtain Lifeline voice service is by combining the service with broadband, the cost of the combined services may become cost prohibitive for some consumers without increasing financial support from the Lifeline program. Furthermore, some consumers

[96] Comments of TracFone, February 21, 2018, p. 64.
[97] Comments of NARUC, February 21, 2018, p. 25.
[98] Comments of Betty Ann Kane, Chairman of the Public Service Commission of the District of Columbia, pp. 10-11.

> may have concluded that they do not need broadband service. Customers should continue to have the option of stand-alone voice or a combination of voice and broadband services.[99]

Similarly, the Minnesota Public Utilities Commission voice strong support for continuing support for voice services:

> The Minnesota Agencies strongly support requiring voice to remain as a component of Lifeline service. Voice service provided through the Public Switched Telephone Network (PSTN) is the lynchpin of universal service. Requiring voice service of all ETCs ensures that users have access to emergency services. Further, the phasing down of Lifeline support appears to be counter-productive in meeting the communication needs of low income consumers. The level of support received from the Lifeline programs should ensure that consumers can afford basic voice service.[100]

The Public Utilities Division of the Oklahoma Corporation Commission, with its endorsement of continuing support for voice services, emphasizes the importance of enabling consumer choice:[101]

> PUD, in response to the question as to whether voice-only services should continue to be supported by the Lifeline program, believes that Lifeline consumers, just as any other consumers, should be allowed to decide what best suits their needs (and provides the best value to them) and that stand-alone voice-services should be an option from which consumers can choose. Accordingly, PUD supports an elimination of the current phase down of Lifeline support for voice-only services and believes the phase down should be eliminated for both rural and urban areas.[102]

[99] Comments of the Florida Public Service Commission, February 21, 2018, p. 4.
[100] Comments of the Minnesota Public Service Commission, February 21, 2018, p. 6.
[101] The importance of consumer choice was also voiced in the Comments of New American's Open Technology Institute, February 21, 2018, p. 9, and in the Comments of The Leadership Conference on Civil and Human Rights, February 21, 2018, p. 2.
[102] Comments of the Public Utility Division of the Oklahoma Corporation Commission, February 21, 2018, p. 9.

The California Public Utilities Commission points to both the essential nature of voice services, and that state's separate funding of Lifeline voice services:

> The CPUC urges the FCC to reconsider the phase down of federal Lifeline support for telephone service. Telephone service is a public safety necessity for reaching E911 and other emergency services, especially in rural areas. Additionally, the California LifeLine Program explicitly subsidizes phone service. . . . The CPUC also reiterates its recommendation that the federal Lifeline program should financially support phone service and for the FCC to continue to require federal Lifeline providers to offer phone service.[103]

In summary, the record provides ample evidence that the support for Lifeline voice services continues to be sound policy. While the *2017 NPRM* indicates that continued support for voice services may be appropriate in rural areas, the record clearly shows that support for voice services in all areas of the nation continues to be essential. Voice services provide critical communication capability, and evidence indicates that low-income consumers find voice service prices to be unaffordable.[104] AARP strongly urges the Commission to suspend the phase-out of support for voice services.

TracFone's "Units" Proposal is Unreasonable

TracFone again advances its "units" proposal in comments, a plan that would give consumers interchangeable units of voice and data service drawn from a common pool of "units."[105] AARP continues to believe that consumers' access to voice services should not be impinged by broadband usage. Voice minutes and broadband data, as sold by wireless carriers, are distinct services, and consumers continue to treat voice and data services as separate.[106] Blending all

[103] Comments of the California Public Utilities Commission, February 21, 2018, pp. 13-14.
[104] Comments of AARP, February 21, 2018, pp. 15-17.
[105] Comments of TracFone, February 21, 2018, pp. 63-66.
[106] See discussion in the "Support for Voice Services Must Not be Phased Out" section of this reply.

usage into "units," as proposed by TracFone, would make it more difficult for consumers to manage their service. While consumers have the potential to easily track minutes of voice usage, tracking data usage is more complex (e.g., a minute is a minute for voice; online usage does not have a similar observable correspondence for the user). Under the TracFone proposal, downloads or data streams that may quickly use up data allowances could leave the customer with nothing for voice, potentially leading to increased expenditures to refill the "units" allowance so as to be able to make voice calls.

Other parties lend support to TracFone's "units" proposal, but AARP does not find these arguments to be convincing.[107] Q Link argues that without "units," Lifeline plans "could force low-income consumers to obtain more data than they need if they also want to be able to place voice calls."[108] AARP agrees that this is a potential problem, but the "units" proposal would similarly force consumers to buy more "units" for voice should they quickly use up "units" using data services. The solution to the problem perceived by Q Link is not "units," but the ability of consumers to separately recharge voice and data usage, or to be able to acquire stand-alone voice or data plans.

Free State Foundation also supports the "units" approach and points to the virtues of consumer choice. Free State foundation states that there is no "good reason to presume that Lifeline customers can't determine themselves how to use the quantity of service available to them under their Lifeline plan."[109] AARP agrees that consumer choice is important but notes that the "units"

[107] Comments of ATN International, Inc., February 21, 2018, pp. 4-5; Comments of National Lifeline Association, February 21, 2018, pp. 70-71.
[108] Comments of Q Link, February 21, 2018, pp. 43-44.
[109] Comments of Free State Foundation, February 21, 2018, p. 7.

approach artificially constrains consumers to a bundle of usage, which is not an outcome that encourages clear consumer choice. Bundling of voice and data usage into a single "unit" prevents consumers from making à la carte choices, and thus reduces the likelihood that Lifeline providers will offer stand-alone service options for voice or data services.

Furthermore, as noted by the Public Utility Division of the Oklahoma Corporation Commission, the specification of the quantity of "units" proposed by TracFone appears to be based on anything but costs, and implicitly charges voice users more for voice usage:

> . . . the key to the acceptability of such a service standard mechanism is the value applied to each unit. The TracFone plan suggests that the value of one (1) minute of voice is equal to one (1) Mb of mobile broadband data. Is this assignment of value based on costs to provide each service or some other metric? PUD would note that, in terms of data usage, voice (converted to digital and compressed) may use between .5 MB to .75 MB of usage for a one (1) minute conversation. Additionally, setting aside the value of the units, is the suggested one thousand (1,000) units for a monthly benefit appropriate for the Lifeline support received?[110]

While TracFone's proposal to equate one minute of voice to one megabyte of data may be convenient from a marketing perspective, it appears to overcharge voice customers for network usage, and will undermine the usefulness of Lifeline plans for consumers who favor voice service usage. While AARP continues to oppose TracFone's "units" approach, should the Commission adopt such an approach, it should require Lifeline providers to refrain from discrimination against voice usage, such as the approach proposed by TracFone.[111]

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[110] Comments of the Public Utility Division of the Oklahoma Corporation Commission, February 21, 2018, p. 9.
[111] AARP notes that

AARP also agrees with the assessment of the Minnesota Public Service Commission, which points to the potential for gaming by service providers:

> The Commission requests comments on TracFone's proposal to allow providers to offer the minimal service requirements through the basis of undefined "units." The Minnesota Agencies do not support the TracFone proposal because the term 'units' is not adequately defined and appears to be a moving target. Different companies may have trouble applying units in similar ways and the Minnesota Agencies believe there is not a reasonable proposal to ensure that these units meet minimum service standards.[112]

The Missouri Public Service Commission does not oppose a "units" approach, but points to potential problems considering the need for the Commission to define service standards for the supported Lifeline service:

> TracFone wants permission to apply a unit-based plan in meeting Lifeline's minimum standards so that Lifeline benefits can be applied based on how the customer uses the service. *TracFone's proposed definition and proposed plan is reasonable as long as all companies define "unit" in the same manner and a proposed unit-based plan can easily demonstrate meeting Lifeline's minimum standards on a standalone basis.*[113]

Thus, should the Commission adopt the "units" approach, the Commission must be sure that a "unit" is a "unit," as provided by any Lifeline provider. Otherwise, "units" will encourage customer confusion as to what a Lifeline provider is actually offering.

Consistent with the potential for problems to emerge with a "units" approach, AARP notes that in this proceeding National Lifeline Association, while supporting the "units" concept, breaks with TracFone's proposal for 1,000 "units." Instead, National Lifeline Association proposes 750 "units" to be allocated to either voice or text. National Lifeline Association also points favorably

[112] Comments of the Minnesota Public Service Commission, January 24, 2018, p. 6.
[113] Comments of the Missouri Public Service Commission, January 23, 2018, pp. 6-7, emphasis added.

to approaches previously introduced by Lifeline providers which provided Lifeline subscribers with either 500 voice minutes, or 500 text messages.[114]

National Lifeline Association's perspective clearly illustrates the problems that will emerge should a "units-based" approach be adopted. A minimum number of "units" will encourage discrimination, as voice, data, and text messages have costs that are unequal.[115] Leaving it to Lifeline providers to define minimum service standards is not reasonable public policy.

In summary on the "units" issue, blending voice and data usage into a single metric is not reasonable public policy. However, should the Commission adopt TracFone's proposal, it must ensure that standardized and cost-based units are offered by participating Lifeline providers.

Conclusion

The record clearly shows widespread opposition to the *2017 NPRM's* vision for the Lifeline program. In areas such as the flat ban on resellers, support for voice services, the self-enforcing budget, the benefits limits, the equipment requirement, and the maximum discount level, there is widespread opposition to the *2017 NPRM's* proposals, and convincing evidence is provided that these proposals, if implemented, would harm consumers and the Lifeline program. The likely impact of the *2017 NPRM's* proposals, as discussed above, will be to further exacerbate the digital divide. AARP strongly urges the Commission to adopt AARP's recommendations, which are supported by a diverse spectrum of commenters. AARP also urges the Commission to revisit

[114] Comments of the National Lifeline Association, February 21, 2018, pp. 70-71.
[115] As was noted by an industry observer during the period when wireless carriers were charging all customers for sending text messages, the then-current $0.20 per message charge resulted in data rates that were higher than those associated with transmitting data to Mars. See, "Price gouging: It costs more to send a text message on Earth than from Mars," Grant Brunner, *Extreme Tech*, November 30, 2012. https://www.extremetech.com/mobile/141867-price-gouging-it-costs-more-to-send-a-text-message-on-earth-than-from-mars

the Lifeline program following a reasonable period after the full implementation of the National Verifier, and to consider expanding the assessment for Lifeline service funding to include a more sustainable approach based on a contribution from broadband services.